

In the Matter of Merchant Mariner's Document No. Z-443162
Issued to: WILLIAM BAKER AROYA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

384

WILLIAM BAKER AROYA

This appeal comes before me by virtue of Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

On 23 August, 1949, Appellant appeared before an Examiner of the United States Coast Guard at New York City to answer a charge of "misconduct" supported by a specification alleging that while Appellant was serving as Junior Engineer on board the American SS ROCK SPRINGS VICTORY, under authority of Merchant Mariner's Document No. Z-443162, he unlawfully had in his possession, on or about 7 May, 1948, while said ship was in the port of Philadelphia, a quantity of narcotics, to wit: four marijuana cigarettes, as well as four ounces and 549 grains of marijuana and tobacco mixed.

At the hearing, Appellant was fully informed as to the nature of the proceedings, the possible outcomes of the hearing and the rights to which Appellant was entitled. Appellant voluntarily waived his right to representation by counsel and he entered a plea of "guilty" to the specification and charge. After the Investigating Officer had completed his opening statement, the Examiner ruled that the date of "7 May, 1949," which appeared in the specification, was a typographical error and he changed it to

"7 May, 1948." Appellant affirmatively stated that he had no objection to this change in the specification. Appellant was then afforded an opportunity to introduce any mitigating circumstances as to why he had the marijuana in his possession. At the conclusion of the hearing, the Examiner found the specification and the charge "proved by plea" and entered an order revoking Appellant's Merchant Mariner's Document No. Z-443162 and all other documents or certificates held by him.

The appeal consists of a request for clemency based on Appellant's desire to make a career of going to sea and his prior clear record as a merchant mariner.

FINDINGS OF FACT

On or about 7 May, 1948, Appellant was serving as a member of the crew in the capacity of Junior Engineer on board the American SS ROCK SPRINGS VICTORY, under authority of Merchant Mariner's Document No. Z-443162, while the ship was at the port of Philadelphia, Pennsylvania, after completion of a foreign voyage.

On this date, the ship was searched by United States Customs Officers. An examination of Appellant's quarters aboard the ship revealed that Appellant had in his possession a half-pound can about three-quarters filled with a mixture of tobacco and marijuana. Further investigation disclosed that Appellant also had in his possession four marijuana cigarettes.

On 14 May, 1948, Appellant was tried in the United States District Court for the Eastern District of Pennsylvania for possession of this marijuana and he was convicted for the possession of drugs which did not constitute part of the cargo entered in the manifest or part of said vessel's stores. Appellant was sentenced to imprisonment for one year and one day but the sentence was suspended and Appellant was placed on probation for a period of two years.

Appellant had purchased two cartridges of marijuana in an East African port while aboard the ROCK SPRINGS VICTORY before the ship returned to Philadelphia. He had made six marijuana cigarettes and mixed the balance of the marijuana with tobacco in two half-pound tobacco cans. During the return voyage to this country, Appellant used two of the marijuana cigarettes and the contents of one of the

two cans. The remainder of the marijuana which Appellant had purchased is what was found by the Customs Officers in Appellant's possession.

OPINION

The record conclusively establishes the fact that Appellant had four marijuana cigarettes and more than four ounces of marijuana and tobacco mixed, in his possession at the time and place in question. Appellant admitted by his plea of "guilty" to the specification that such possession was "unlawful" as alleged in the specification. In addition, the judgment of conviction by a Federal court is conclusive as to Appellant's guilt since the same acts formed the basis of the charges in the Federal court as those facts which are involved in this proceeding (46 Code of Federal Regulations 137.15-5); and the evidence that Appellant used some of the marijuana while aboard the vessel aggravates the offense of possession of marijuana.

Despite his apparently sincere desire to return to sea, Appellant's appeal for clemency on this latter basis cannot be given effective consideration in view of the statutory duty imposed upon the Coast Guard to preserve discipline and safety at sea on American merchant vessels. In order to properly carry out this duty, the Coast Guard must exercise its power to revoke the documents, certificates or licenses of those seamen whose activities constitute an actual or potential threat to the lives and property of others when the former are acting under authority of their documents, certificates or licenses.

It has been repeatedly stated in my decisions and it has been the consistent policy of the Coast Guard that any association with marijuana is considered to be extremely detrimental to the safety of ships and personnel aboard them and, consequently, this serious offense can be adequately handled only by revocation of all documents, certificates and licenses held by the offender. The high degree of responsibility imposed upon the Coast Guard in such matters, together with the dangerous nature of marijuana as is pointed out by the Examiner in his decision, require that the order herein be sustained.

CONCLUSION and ORDER

The Order of the Examiner dated 23 August, 1949, should be,
and it is, AFFIRMED.

J. F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 27th day of Oct., 1949.

***** END OF DECISION NO. 384 *****

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